IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

MACA.No. 377 of 2007()

OPMV.1205/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, TRIVANDRUM
.....

APPELLANT/APPLICANT

V.JAYADEVAN, S/O VELAYUDHAN ASSARI,
T.C.20/849-1, SREELAKSHMI VILASOM,
MELARANNOOR, KARAMANA, THIRUVANANTHAPURAM.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS:
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1. THE MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION,
THIRUVANANTHAPURAM.

2. K.BHUVANENDRAN, S/O KRISHNA PANICKER,
ARITHOTTATHU VEEDU, KADAVATTARAM,
NEYYATTINKARA, THIRUVANANTHAPURAM.

3. NATIONAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, THIRUVANANTHAPURAM.

BY ADV. SRI.LAL GEORGE, SC FOR R3

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 30/03/2007, HE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC, JJ.
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M.A.C.A. NO. 377 OF 2007
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Dated this the 30th day of March, 2007

J U D G M E N T

P.R.Raman, J.

The appellant is the claimant in OP(M.V) No.1205/99 in the file of MACT, Trivandrum. He sustained injury in a motor accident. The application was filed claiming compensation. The Tribunal awarded an amount of Rs.76,175/- by way of compensation after apportioning the blame in equal proportion on the petitioner and other offending vehicle at fifty-fifty. The only point that is pressed into service of this appeal is that the income as fixed by the Court below is too low. According to the learned counsel for the appellant, even going by the documentary evidence adduced in the case, his income will be more than Rs.6,000/- and there was no reason to reduce the income to Rs.2000/-.

2. We have heard both sides.

3. The income tax returns filed for the period 88-89 shows that he had an income of Rs.70,890/-. The accident occurred in April 1999. Therefore, it will be safe to take the said

income for the purpose of computation. Further deducting the tax due, it will only be Rs.67,691/- as a net income. But as rightly found by the Tribunal, there is no actual loss of earning as is evident from the income tax returns filed for the subsequent years. Hence we fix Rs.4,500/- as income for the purpose of computation of disability compensation. He has suffered a disability of 21% and 15 has been taken as the multiplier. Applying the same formula, the total amount of compensation payable towards permanent disability will come to Rs.1,70,100/-. Since the appellant is entitled to 50% of the same, it will come to Rs.85,050/-. Hence over and above the amount of compensation as awarded by the Court below, the appellant will be entitled for an amount of Rs.47,250/- by way of additional compensation, which will carry interest at the rate of 7% from the date of the petition till realisation.

Appeal is allowed modifying the award as above.

P.R.RAMAN, JUDGE.

ANTONY DOMINIC, JUDGE.

Rp